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CONCORD, N.H.

James W. Nelson, Deputy Bank Commissioner
State House
Concord, New Hampshire

Dear Mr. Nelson:

This is in reply to your letter of October 9, 1958 in which you inquire whether RSA 394:30 and 31 should be so administered as to prohibit loans by credit unions to spouses or to the close relatives of directors of credit unions, or members of the credit or supervisory committees.

The two sections to which you have referred read as follows:

"394:30 To Members of Committees. No member of either committee shall, directly or indirectly, borrow from the union or become surety for any loan or advance made by it."

"394:31 To Directors. No member of the board of directors shall directly or indirectly, borrow from the union or become surety for any loan or advance made by it, unless such loan or advance shall have been approved at a meeting of the members of the union by a majority vote of those present and the notice of such meeting shall have stated that the question of loans to directors would be considered thereat."

Had it been the intent of the Legislature to prohibit loans to spouses and close relatives of members of supervisory or credit committees it would have been very easy for them to have specifically so stated in Section 30, and had it been their intent to restrict loans to wives or close relatives of directors it would have been equally easy to have specifically so stated in Section 31.

What is prohibited under Section 30 are direct or indirect loans to members of the committees only. We recognize that there might be cases where a loan to a spouse or a close relative might well constitute an indirect loan to a member of the credit or supervisory committee. On the other hand, wives or other close relatives might seek loans wholly for their own purposes to be repaid from their own funds.

C O P Y

James W. Nelson,
Deputy Bank Commissioner

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In brief we are of the opinion that Section 30 should not be so administered as to absolutely prohibit loans to spouses or other close relatives. We do advise, however, that applications for loans from such individuals should be submitted to a most careful scrutiny and the applicants carefully questioned as to the purpose of the requested loan and the use which is to be made of the proceeds of the loan. Such scrutiny is essential in order to determine as a matter of fact whether the requested loan is or is not an indirect loan to a member of either committee.

With respect to loans to such individuals we would also point out that further protection to the credit union is afforded by the fact that under RSA 394:16 loans may be made only to members of the credit union. In other words, a spouse or close relative of a committee member is not even eligible to apply for a loan unless he or she is also a member of the credit union.

Under Section 31, no director of a credit union shall directly or indirectly borrow from the union "... unless such loan . . . shall have been approved at a meeting of the members of the union by a majority vote of those present and the notice of such meeting shall have stated that the question of loans to directors would be considered thereat."

While applications from wives or close relatives of directors should be submitted to the same careful scrutiny as applications from wives or close relatives of members of the supervisory or credit committees, we are of the opinion that the restrictive language in Section 31 does not apply to such applications unless it has first been determined as a matter of fact that a loan to such individual would constitute an indirect loan to a director.

In closing we might observe that we would deem it good practice for members of the credit or supervisory committees to abstain from voting on applications for loans by their spouses or close relatives.

Very truly yours,

George T. Ray, Jr.
Assistant Attorney General

GTR,Jr/m